

H-3107-1 - CONTINUATION, EXTENSION, OR RENEWAL OF LEASES

KeywordsVIII. Renewal LeasesA. General

Prior to an amendment to Section 31(g) of the Mineral Leasing Act (MLA), enacted on November 15, 1990, a 20-year lease or renewal thereof could be renewed for successive periods of 10 years. Failure of the lessee to timely apply for renewal of such a 20-year lease or renewal lease results in the expiration of the lease even though there is an existing producing well on the lease. Such a renewal lease was not held by production prior to the 1990 amendment to the MLA (see Peacock Oil Company, Inc., Twin Arrow Inc., 29 IBLA 74 (1977)).

RENEWAL
LEASES

Renewal leases are those leases that were issued under the MLA for 20 years with a right to renew for successive 10-year terms under such reasonable terms and conditions as prescribed by the Secretary of the Interior. The principal remaining renewal leases result from Section 14 of the MLA. However, 20-year leases also were created by Sections 18, 18a, and 19 of the MLA. With the enactment of the MLA amendment of August 21, 1935, the issuance of prospecting permits terminated. The issuance of Section 14 leases was limited to those who already held prospecting permits at the time of the 1935 amendment.

The 1990 amendment requires that any lease issued pursuant to Section 14 of the MLA shall, upon its renewal on or after November 15, 1990, continue for 20 years and so long thereafter as oil or gas is produced in paying quantities. Accordingly, any 20-year lease or renewal lease that has an expiration date after November 15, 1990, is eligible for renewal only under the provisions of the new law, i.e., for 20 years and so long thereafter as oil and gas is produced in paying quantities. Thus, if a lease is renewed pursuant to the 1990 amendment and it is not producing oil or gas at the end of its 20-year renewal term, it will terminate.

1990 AMENDMENT
TO MINERAL
LEASING ACT
CHANGED RENEWAL
LEASE TERM

Prior to the 1990 MLA amendment, Section 14 renewal leases were not eligible for the Class II lease reinstatement provisions of Title IV of the Federal Oil and Gas Royalty Management Act of 1982. The 1990 MLA amendment allowed Class II lease reinstatements for Section 14 leases (but not for any remaining Section 18 leases). When a Section 14 renewal lease is reinstated under either the Class I or Class II provisions, the lease term shall be for 20 years and so long thereafter as oil or gas is produced in paying quantities. (For lease reinstatement procedures, see Handbook 3108-1.)

RENEWAL LEASES
ELIGIBLE FOR
CLASS II LEASE
REINSTATEMENT

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Keywords

Although a renewal lease application should be filed at least 90 days prior to expiration of the existing lease, a late application for renewal after the lease has expired ordinarily should be processed, i.e., the requirement that such an application be timely filed not more than 6 months prior to expiration of the lease, but at least 90 days prior to lease expiration, is now permissive (see T & M Corp., Larry G. McLatchy, 70 IBLA 366 (1983)).

LATE RENEWAL
APPLICATION
ACCEPTABLE

If the lands have not been withdrawn from leasing, the oil and gas lessee has a preference right over other parties to receive a renewal lease. However, the existing lessee has no absolute or unconditional right to a renewal lease because the Secretary of the Interior may exercise discretion in deciding whether to continue leasing the lands involved. However, once a renewal lease application has been filed, the existing renewal lease with its terms and conditions is preserved, in accordance with Section 9 of the Administrative Procedure Act, until the authorized officer decides whether to issue a renewal lease or deny the application (see Solicitor's Opinion M-36943, 89 I.D. 173 (1982)).

PREFERENCE
RIGHT TO A
RENEWAL LEASE
IS NOT AN
UNCONDITIONAL
RIGHT TO A
LEASE

At the time a renewal lease is issued, the Bureau shall revise the lease terms and conditions. Stipulations for existing laws, such as the Endangered Species Act and the National Historic Preservation Act, do not need to be attached to the lease since such requirements are covered by language in the lease Form 3100-11 that requires compliance with laws, regulations, and orders promulgated. The renewal lease shall be issued promptly with a stipulation, if needed, making the lease subject to reasonable terms and conditions that may be established in the future pending completion of planning/NEPA documents. This stipulation will reserve the right of the Federal Government to set additional stipulations, as long as the lessee expressly consents to this provision to be bound by those reasonable terms and conditions. (See Manual Section 3101.)

RENEWAL
LEASE
WITH REVISED
TERMS AND
CONDITIONS

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B. Processing Application for Renewal Lease

Responsible Official	Step	Action	Keywords
Receiving Official	1.	Receive application for renewal.	RENEWAL LEASE APPLICATION RECEIVED
ALMRS Entry	2.	Enter Action Date (MANDATORY ACTION CODE): Date renewal lease application received; DE 1775 Action Code 622/DE 2910 Action Code 314.	AUTOMATED NOTATION
Adjudication	3.	Examine application for compliance with the following to determine if lease is entitled to a renewal:	RENEWAL LEASE REQUIREMENTS
	3a.	Three copies of application.	
	3b.	Timely filed and accompanied by \$75 filing fee.	
		<p><u>NOTE:</u> Application should be filed at least 90 days, but not more than 6 months prior to expiration of lease term. The IBLA, however, has determined that late renewal lease applications ordinarily should be processed. (See <u>T & M Corp., Larry G. McLatchy, 70 IBLA 366 (1983).</u>)</p>	
	3c.	Proper execution by record title holder. The operator may join or consent to execution.	
	3d.	Showing that all monies due have been paid and whether operations have been conducted in accordance with the regulations.	
	3e.	Submission, in triplicate, of overriding royalty or production payments not previously filed (see 43 CFR 3107.8-1(b)).	

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Responsible Official	Step	Action	Keywords
	4.	Check whether lease is committed to a unit agreement.	UNITIZED RENEWAL LEASE
	4a.	If a lease is committed to a unit agreement at the time of expiration of its 20-year term or 10-year renewal term, it is not entitled to another renewal, but is continued in force and made coterminous with the unit. Upon termination of the unit agreement, the lease is eligible for a 2-year extension that supersedes the provision of the lease for successive 10-year renewals. (See <u>Texaco Inc.</u> , 76 I.D. 196 (1969) and <u>Anne Burnett Tandy et al.</u> , 33 IBLA 106 (1977).)	
	4b.	When a 20-year lease committed to a unit prior to the end of the lease's initial term and, thus, extended by the unit beyond the original lease term, is eliminated from the unit, the 20-year lease's term is automatically extended 2 years, and such lease is not eligible for further renewal. (See <u>Marathon Oil Company et al.</u> , 19 IBLA 1 (1975).)	
	4c.	A 20-year lease, in a 10-year renewal term, committed to and then eliminated from a unit prior to expiration of the lease's term, so that the lease is not part of a unit at the end of the lease term, is entitled to another renewal. (See <u>Omaha National Bank, Yates Petroleum Corp.</u> , 11 IBLA 174 (1973).)	
	5.	If a renewal lease is committed to a CA at the time of lease expiration, the lease is eligible for a 2-year extension upon termination of the CA, and is held by production if the production was established prior to the expiration of the 2-year lease extension period.	

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Responsible Official	Step	Action	Keywords
	6.	Transmit one copy of application (with a copy of each agreement providing for overriding royalties and payments out of production not previously filed) to the FO operations requesting a report and recommendations on renewal of lease	
	7.	If the lease is in a producing status, check the MMS Business Information System (BIS) for any unpaid assessments for royalty or other monies due. If the account is delinquent, the lease shall not be renewed until the MMS reports to the BLM that the account deficiency has been rectified or the BIS screens indicate that the lease no longer has an arrearage in payments.	LEASE ACCOUNT STATUS
Field Office Operations	8.	Determine whether any operational conditions on leasehold require correction prior to renewal. If correction is needed, notify operator what actions must be taken before lease renewal will be granted. Send a copy of any such notice to SO fluid lease adjudication.	
	9.	Determine if any new stipulations are required on the renewal lease in accordance with latest approved planning decisions. While the right of renewal of such a lease is nearly absolute, the operator may be required to conform operations to current requirements (for example, a revised land-use plan) as a condition of such lease renewal.	REVIEW FOR ENVIRONMENTAL STIPULATIONS
	10.	Determine if overriding royalties and payments out of production in excess of 5 percent of gross production constitute a burden on lease operations that may lead to premature abandonment. The renewal lease application should be suspended until any excess overriding royalties/payments out of production are reduced to be not more than 5 percent of the value of production.	EXCESSIVE OVERRIDING ROYALTY

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Responsible

Official	Step	Action	Keywords
		<p><u>NOTE:</u> If a mutually fair and equitable agreement by the parties to suspend excessive overriding royalties cannot be entered into, any of the parties may request that a hearing be conducted by the AO, at which time all interested parties may present statements (with written copies of such statements also provided). After the hearing, the AO shall issue a decision outlining the acceptable base conditions for a fair and reasonable adjustment. If, within a fixed period of time, proof is not submitted that such an adjustment has been effected, the application for lease renewal must be denied (see 43 CFR 3107.8-3(b)).</p>	
	11.	Transmit recommendations concerning renewal of the lease to SO fluid lease adjudication for notification to the lessee.	FIELD OFFICE OPERATIONS REPORT
Adjudication	12.	If the FO operations report is favorable and the lease does not have any delinquent MMS payments owed, as indicated on the BIS screens, prepare a decision to the applicant transmitting, in triplicate, the lease forms and stipulations (see Section VIII.A, above), and require a bond or consent of surety to the lease renewal, if necessary (see Illustration 26). A consent of surety is not required if the bond contains a provision for coverage for the extension or continuation of the lease or if the lessee has an applicable statewide or nationwide bond (see Handbook 3104-1).	TRANSMITTAL OF LEASE FORMS BOND REQUIREMENT

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		Use lease Form 3100-11 to issue lease. On leases receiving a second or subsequent renewal, the effective date will be the first day of the month following the expiration of the prior lease. On leases that have just reached the end of their 20-year primary term (due to very lengthy suspensions of operation) and are being renewed for the first time, e.g., a lease expiring 4-25-94, the effective renewal lease date would be 4-1-94.	LEASE FORM PREPARATION
	13a.	Insert the words "Renewal Lease (20 years and so long thereafter as producing oil or gas in paying quantities)" at the bottom of the lease form after "Other." Ensure that the rental rate is \$2 per acre (see 43 CFR 3103.2-2(b)(3)). The royalty rate for a renewal lease is 12½ percent regardless of the rate of the original lease (see 43 CFR 3103.3-1(a)(1)).	LEASE TERM RENTAL AND ROYALTY RATES
		If the effective date of the renewal lease is prior to the expiration date of the original lease, the following must be inserted on the reverse side of the lease form under "Sec. 2. Royalties," (or on an attachment to the lease): "To and including <u>(the expiration date of the original lease)</u> , the royalties to be paid hereunder shall be computed on the basis of the royalties prescribed in the original lease."	DATING OF LEASE
	15.	Examine that all copies of the lease forms returned by the applicant have been properly executed.	
		If lease is not producing, complete accounting advice (see Illustration 27).	ACCOUNTING ADVICE - RENEWAL LEASE

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Responsible Official	Step	Action	Keywords
ALMRS Entry	17.	Update Case Recordation using current data standards (see Illustration 28).	AUTOMATED NOTATION
		Enter Action Date (MANDATORY ACTION CODE): Date lease signed by AO; DE 1775 Action Code 176/DE 2910 Action Code 237; and	
		Enter Action Date (MANDATORY ACTION CODE): Date lease renewed; DE 1775 Action Code 623/DE 2910 Action Code 242; Action Remarks: THRU MM/DD/YY; and	
	17c.	Enter Action Date (MANDATORY ACTION CODE): Effective date of renewal lease; DE 1775 Action Code 225/DE 2910 Action Code 868; and	
		Enter Action Date (MANDATORY ACTION CODE): Enter 12½ percent royalty rate; DE 1775 Action Code 102/DE 2910 Action Code 530; and	
		Enter Action Date (MANDATORY ACTION CODE): Date renewal lease expires; DE 1775/2910 Action Code 763.	
		<u>NOTE:</u> If lease had been renewed previously, remove prior Action Code 763 entry before entering updated renewal lease action entries. Also, if necessary, correct the case type to 310781, O&G Renewal Lease - PD (DE 2961/2912).	
Docket	18.	File case file with active files.	